

September 23, 2002

Town Clerk
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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

SEPTEMBER 23, 2002

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN
MICHAEL KANE
LEN MCDONALD
MICHAEL REIS
STEPHEN RIVERA

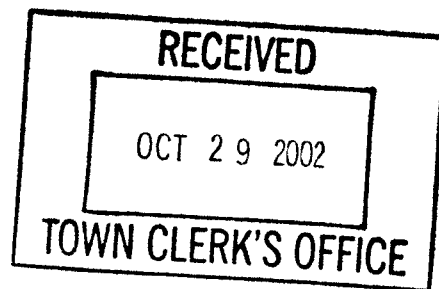
ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

ABSENT: PATRICIA CORSETTI
ZONING BOARD SECRETARY

REGULAR MEETING

MR. TORLEY: I'd like to call the September 23, 2002
Town of New Windsor Zoning Board of Appeals meeting to
order.



PRELIMINARY MEETING:

TABLED FROM 9/9/02 - STURTZ, ROBERT

MR. TORLEY: Request for use variance to conduct motor vehicle sales in single family (R-1) zone at 335 Station Road. Have you spoke with him since this?

MR. BABCOCK: No.

MR. TORLEY: Okay, the reason we tabled this for you guys who weren't here last time, gentleman is trying, you may have seen in the minutes he wants to have like a motor vehicle, he's not going to sell cars there, sort of like a broker, won't be people coming to his place, it's all being basically done by telephone, that sort of thing from the information we have at the preliminary meeting.

MR. REIS: Not retail?

MR. TORLEY: Not retail, not even wholesale, not quite sure what you'd call it but Andy was going to check in, didn't really meet the criteria for home office as I understood it.

MR. KRIEGER: Yes, it did not and I have checked and it still doesn't.

MR. TORLEY: Okay, in that case, what's your pleasure, should we, do you want to inform this person that he has a right for a public hearing?

MR. KANE: We were tabling it until this meeting so, Mr. Chairman, I move that we remove it from the table, put it back into discussion for a normal vote.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE

MR. TORLEY AYE

MR. KANE: So, basically, what you wanted was a use variance which is going to be difficult for him to get in a residential neighborhood, we had all the information so it looks like we need to set him up for a public hearing.

MR. TORLEY: He was informed of the difficulties. Do I hear a motion?

MR. MC DONALD: Make a motion we set him up for a public hearing.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

MR. REIS: He realizes the hardship?

MR. TORLEY: He does, remember, he has the right but not the obligation.

MR. KANE: This way he can proceed with it if he wants to for a public hearing.

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ACCEPTANCE OF MINUTES - 8/12/02 & 09/09/02

MR. TORLEY: Motion to accept the minutes as written?

MR. KANE: So moved.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

MODH, PARESH

MR. TORLEY: Request for 5 ft. 6 in. side yard and 7 ft. rear yard variances for an existing shed at 1136 Route 94 in an NC zone.

Mr. Paresh Modh appeared before the board for this proposal.

MR. TORLEY: Tell us what you want to do.

MR. PARESH: When I bought the house, the shed was existing, I bought the house less than two years ago, I didn't know anything about it at that time and I have a second one also for the--

MR. BABCOCK: Mr. Chairman, on the agenda, she doesn't have the, he's here for two variances, one for a shed, one for an existing deck.

MR. TORLEY: This is place with two front yards, basically?

MR. BABCOCK: No.

MR. KANE: Michael, do you have the specs on the requirements for the existing deck?

MR. BABCOCK: Yeah, it's an existing 12 x 12 deck, he's required to be 40 feet from the rear yard, he's 17 feet so he needs a 23 foot variance rear yard.

MR. KRIEGER: For the deck.

MR. KANE: Was there any existing permit application for the outstanding permit for the deck or the shed?

MR. BABCOCK: No, it appears from here and we can ask the applicant, it appears from here that there was an 8 x 5 deck, when they rebuilt it, they rebuilt it to 12 x 12.

MR. PARESH: 8 x 8 and I put it 12 x 12.

MR. KANE: The size of the shed that you have, that's

similar in size to other sheds in the neighborhood?

MR. PARESH: Yes, I think it's smaller than next door.

MR. KANE: Do you know of any complaints formally or informally about the deck or the shed?

MR. PARESH: No.

MR. MC DONALD: Not over any water or sewer easements of any sort? Nothing's underneath it?

MR. PARESH: No.

MR. TORLEY: Now, a variance can't be granted because you want to, and area variances are a balancing act of the difficulties that you have combined with the code versus any adverse affects on your neighbors, so you have to be able to tell us what is the reason you couldn't put the deck or the shed in such a place on your property that you meet the zoning.

MR. PARESH: The deck was 8 x 8, it was too small, so I thought I have to make it longer and it's not touching anybody's property.

MR. KANE: 12 x 12 deck isn't overly big for the neighborhood, other homes in the neighborhood have similar size decks?

MR. PARESH: They don't have decks in the neighborhood cause I don't have any neighbors, only one neighbor I have and he was a new house.

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion we set up Mr. Paresh for his requested variances at 1136 Route 94.

MR. MC DONALD: Second it.

ROLL CALL

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MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

HARDEN, GREGORY

MR. TORLEY: Request for 5 ft. side yard variance to construct an attached two-car garage at 107 Parkdale Drive in an R-4 zone.

Mr. Gregory Harden appeared before the board for this proposal.

MR. TORLEY: So, what do you want to do?

MR. HARDEN: I want to build a 24 foot wide by 30 foot deep garage attached to my current raised ranch two car garage.

MR. TORLEY: This will bring to you five foot from the property line?

MR. HARDEN: Correct.

MR. TORLEY: By code you're supposed to be ten.

MR. BABCOCK: Actually, 15.

MR. HARDEN: Fifteen is the setback.

MR. TORLEY: Fifteen?

MR. BABCOCK: Yeah, actually, according to his survey, he's required to have 15, he's providing ten so he needs a variance for 5.

MR. HARDEN: Correct, thank you.

MR. TORLEY: We go by what your measurements, what you tell us, if you tell us you need a five foot variance and you build it out, the variance comes back, turns out you need a 6 foot variance, you may have to start all over again.

MR. HARDEN: I fudged it a little bit, we've got a couple feet.

MR. KANE: The 24 x 30, that's the minimum you need for a two car garage?

MR. HARDEN: Yes.

MR. BABCOCK: Well, the 30 feet really isn't his problem, it's the 24 and you realize he can't have a two car garage without having 24 feet, unless you tear the doors up on the cars.

MR. KANE: Tearing down any trees or creating any runoffs of water hazards in the building of this?

MR. HARDEN: No.

MR. MC DONALD: Over any existing sewer lines or water lines, septic?

MR. HARDEN: No. Gas line has to be relocated, that's not a problem.

MR. BABCOCK: Mr. Chairman, also, if you look at his house the way that it was built on the lot it's twisted quite a bit, it's what's really throwing him off. If the house was square to the lot on the other side he probably wouldn't be here tonight.

MR. KANE: Welcome to New Windsor.

MR. TORLEY: Clearly, it's an economic difficulty to straighten the house.

MR. BABCOCK: Yes.

MR. KANE: The two car garage is going to be similar in size to other garages in the neighborhood? It's not going to change the character of the neighborhood?

MR. HARDEN: No, not at all, it's going to match the house.

MR. MC DONALD: Aesthetically same as the house?

MR. HARDEN: Same siding, yes.

MR. TORLEY: Gentlemen, any other questions?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion we set up Mr. Harden for his requested variance at 107 Parkdale drive.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

MR. TORLEY: Please bring a couple pictures to the public hearing, particularly stake out where the garage is going to be.

MR. HARDEN: Regular size pictures?

MR. KANE: Yeah, that's fine.

CUBITO, ROSE ANN

MR. TORLEY: Request for use variance to allow existing second apartment at 15 Hillside Avenue in an R-4, single-family zone.

Mr. Joseph Pillitteri and Mrs. Rose Ann Cubito appeared before the board for this proposal.

MR. TORLEY: So, tell us your problem.

MR. PILLITTERI: My aunt purchased this house in 1987 from her mother. When she purchased the house from her mother, she bought it as a two-family house in 1987. I guess it went through the banks or whatever and now her husband has passed away and she's trying to sell the house, it's too large for her. She went through the procedures of selling the house as a two family, when she had purchased, the bank sent the letters around and we received a letter back stating it isn't a two-family house. So we're here to find out why and what we need to do to correct it.

MR. KANE: When you originally purchased the house as a two family, was that just an understanding or did you have some kind of legal documents that stated that this was initially a two family house or was that just a personal understanding going back and forth?

MR. PILLITTERI: It's written on the contract.

MR. KANE: That doesn't necessarily make it.

MR. TORLEY: How old is the house?

MR. BABCOCK: Built in 1950. What I think, Mr. Chairman, what happened is we wrote a letter in 1988 and back then, the bank apparently didn't ask for a violation letter, they asked when the house was built and that there was a C.O. Today, they ask for or last week, I should say, August 16, the bank asked when was it built, is there a C.O., is there any violations so sometime between whenever then and now somebody's records in Town Hall which this indicates the assessor's records indicates that that was added, so it

very possibly was there when she bought it. We didn't know about it, maybe, I'm not sure.

MR. PILLITTERI: Well, the apartment has probably been there well before the '60's, I mean, we've had everybody in our family live there.

MR. TORLEY: We need evidence that it was a two-family house prior to 1967.

MR. BABCOCK: '66.

MR. TORLEY: That means it predates zoning, you can have evidence that it was like that before zoning started, it's grandfathered in and you have no problem.

MR. PILLITTERI: When you say evidence?

MR. KANE: Tax records.

MR. TORLEY: Photos, affidavits.

MR. PILLITTERI: How about the people who lived there?

MR. TORLEY: Affidavits from them.

MR. KANE: Everything that you can do, it's extremely hard.

MR. TORLEY: You have to make sure you have convincing evidence that it was always a two-family house since the early '60's.

MR. BABCOCK: One other thing, Mr. Chairman, in 1968, they took out a sewer permit to hook up to the sewer line and at that time, it was a five bedroom and two baths and what they're telling me there's only one bath upstairs and one bath downstairs, so it appears that's some help for them.

MR. KANE: That will be helpful and if you have been paying your taxes as a two family, you need all the documentation because New York State Law makes it extremely difficult more so than an area variance for the local boards to pass that so the evidence is on you

to prove to us that that has been used before zoning and it's grandfathered in basically.

MR. TORLEY: The more evidence the better.

MR. PILLITTERI: So we need--

MR. REIS: Is there two electric meters?

MR. PILLITTERI: Yes.

MR. REIS: Two heat heating systems?

MR. PILLITTERI: No, single.

MR. MC DONALD: It's zoned?

MR. PILLITTERI: Yes, it's two different zones.

MR. TORLEY: That's the kind of thing we need at the public hearing showing evidence it was a two family before '67, all that kind of information because unless we have clear convincing evidence that it was grandfathered in, then you're asking for a use variance and particularly in a residential zone that's very difficult.

MR. KANE: Basically, it means you've got to prove that you can't sell the house as a single family house for a reasonable return which does not mean make a profit, which would be impossible, so all the evidence you can get.

MR. PILLITTERI: Pictures dating back that my uncles lived there important?

MR. TORLEY: Pictures, affidavits.

MR. PILLITTERI: Get people to indicate that they actually lived there and those dates that would be convincing evidence?

MR. KANE: Yes.

MR. PILLITTERI: Do we need a public hearing for that?

MR. MC DONALD: Yes. I make a motion that we set up a public hearing.

MR. KANE: We do a preliminary so you get a feel for what we need. Other towns you go in cold and if you don't know, you lose.

MR. TORLEY: You're starting over again, think about walking in with what you now know.

MR. MC DONALD: Accept a motion?

MR. TORLEY: Yes.

MR. MC DONALD: Motion that we set up Mrs. Cubito for a public hearing on her request for an existing second apartment.

MR. TORLEY: Now, I'm going to ask--

MR. KRIEGER: And/or interpretation.

MR. MC DONALD: Okay, and/or interpretation.

MR. PILLITTERI: Does she need to send letters around to the neighbors?

MR. KANE: Yes, for the public hearing you're going to have to.

MR. PILLITTERI: That's great because some of them lived there.

MR. TORLEY: Now, in addition to that because you're asking for, in addition to the interpretation, you have a fall back of the use, you have to, since it's a use variance, you have to fill out this form, which is the SEQRA environmental assessment form and these other forms are here and call Pat or her office if you have questions.

MR. KANE: I second the motion.

ROLL CALL

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MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

CACCIOLA, JOSEPH

Mrs. Joseph Cacciola appeared before the board for this proposal.

MR. TORLEY: Request for interpretation and/or use variance to allow converted garage to second apartment at 352 Shelly Road in an R-4 zone.

MR. KANE: You understand how difficult it is, we need you guys to prove that this has been basically in use before zoning as what is this, converted garage, has this been used as an apartment?

MRS. CACCIOLA: No, I converted the garage into a kitchen because my husband had a heart attack and again, it's a bi-level.

MR. BABCOCK: This is a little bit different, Mr. Chairman, I think.

MR. TORLEY: You had a bi-level building that you added a second kitchen to aid your husband because he couldn't go up and down stairs?

MRS. CACCIOLA: Right.

MR. TORLEY: Your wish is to make this a legal apartment and rent it out?

MR. KANE: Or you just want to--

MRS. CACCIOLA: No, I just want to have the kitchen there. I don't want to rent it, no, absolutely not.

MR. BABCOCK: Because they have two kitchens and two separate units, it could be constituted as a two-family house, so they need an interpretation from you saying it's still a single family house with two kitchens and two bathrooms.

MR. KANE: One electric and gas meter?

MRS. CACCIOLA: Yes.

MR. KANE: Any lockable doors or separate entranceways?

MRS. CACCIOLA: Yes.

MR. KANE: No way into the house from the kitchen.

MR. TORLEY: The stairway's still there?

MRS. CACCIOLA: Yes.

MR. TORLEY: Obviously, the outside doors have locks.

MR. KANE: But you don't have a lockable door inside, it's an easy access from the inside to go back and forth?

MRS. CACCIOLA: Yeah.

MR. KANE: These are the kinds of questions we're going to ask you. If you can bring some pictures that would be good.

MRS. CACCIOLA: Of what?

MR. KANE: Kitchen area.

MR. KRIEGER: Do you also want the exterior of the house so you can verify that there are no separate entrances?

MR. KANE: Yes.

MRS. CACCIOLA: Town gave me a permit to put a door in so easy access for him to come in and out without going up the stairs.

MR. KANE: That isn't a problem, just external pictures, some internal pictures.

MRS. CACCIOLA: Okay, I can do that, but I don't want it to be a two family, no.

MR. TORLEY: When we go through this to the public hearing on this, one of the things we're going to ask you to do, to say that on the record that it will be,

is now a single family and will remain a single family and that will be, you know, all these variances and interpretation going with the property so this will be binding on anybody you sell the house to.

MRS. CACCIOLA: That's what it has been, one family.

MR. TORLEY: But it's for your neighbors.

MR. KANE: Any complaints formally or informally about this?

MRS. CACCIOLA: No.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: Move we set up Joseph Cacciola for a public hearing on their requested interpretation for 352 Shelly Road.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

CHIN, NEA SUM

Ms. Nea Sum Chin appeared before the board for this proposal.

MR. TORLEY: Request for 4.2 ft. side yard variance for existing shed at 21 Clarkview Road in an R-4 zone.

MR. TORLEY: Yes, ma'am?

MS. CHIN: It's an existing shed, it's been there three years ago. I'm trying to refinance and it showed up and didn't show up at the time when we purchased the home and it showed up after.

MR. KANE: All depends on the banks, some banks are very particular, some banks aren't so depending what information they ask, not always what the town does. Do you know about how old the shed is?

MS. CHIN: It's old, it's old.

MR. KANE: Have you had any complaints formally or informally about the shed?

MS. CHIN: No.

MR. KANE: No creation of water hazards or runoffs?

MS. CHIN: No.

MR. KANE: Shed is similar in size to other sheds in the neighborhood?

MS. CHIN: Yes.

MR. TORLEY: Please be sure of your measurements, asking 4.2 feet, because the bank is giving you grief over there and turns out you need a 4.4 foot variance, they may still give you grief.

MR. BABCOCK: We put those numbers exact it's because the surveyor gives us those numbers, that's why we do that.

MR. TORLEY: I didn't know whether you had given us the number or they did.

MR. BABCOCK: Right.

MR. TORLEY: Any other questions on this matter?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: I'd like to make a motion that we set up Nea Sum Chin for a requested variance at 21 Clarkview Road.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

YARUS, ANN

Mr. and Mrs. Yarus appeared before the board for this proposal.

MR. TORLEY: Request for 10 ft. rear yard variance for construction of rear addition at 744 Blooming Grove Turnpike in an R-4 zone.

MRS. YARUS: Thank you for the opportunity to come in and have this preliminary review. I appreciate it. Our intent is to create an addition onto an existing home. I have been the owner since 1986, it was my family home, my father being the original owner in 1960 or thereabouts, '63. Point is that we're planning to create a rather substantial addition, but require setback I guess is the term. This is the photograph of the back of the house and I have the plans with me. I don't know if you have the plans.

MR. BABCOCK: Yes.

MRS. YARUS: The plans require that we will be putting an addition exclusively on the back of the house and because of the depth that we're planning to add, we'll require the variance from the existing property.

MR. YARUS: The ten feet that we're asking we only need 6, I think we have a margin of safety there.

MR. TORLEY: Always good.

MRS. YARUS: Currently, this is the back of the house, we will not be infringing on the sides. It's purely to the back. I already have alerted our neighbors. We have had the discussion letting them know and they seem to be in agreement because there has been some improvement in the neighborhood, it's good to know that a lot of these houses on Route 94 are being improved and enlarged and just two doors down, Dr. O'Brien, a dentist, has actually re-made that bi-level which is just two doors down from us. So that seems also to have some probably some setback issues that you probably had to deal with. Ours are probably not as substantial of a change. We're not changing the look

of the neighborhood. The plans are in line with the general look of the homes in the neighborhood. So it's expected that all we'll do is generally improve the overall property values of our neighbors as well as our own.

MR. KANE: You've been listening, huh?

MRS. YARUS: Yes.

MR. TORLEY: This is now a residence?

MRS. YARUS: Yes.

MR. TORLEY: Going to remain a single family residence?

MRS. YARUS: Yes.

MR. KANE: Not creating any water hazards?

MRS. YARUS: No.

MR. KANE: Cutting down any trees?

MRS. YARUS: One tree. This is the front, it remains on 94 this way and the back I guess I have given you this is just the back, the back and the side back.

MR. YARUS: We removed a deck that was in violation.

MR. TORLEY: Obviously until some replacement there of either addition or a new deck would be required for safety exit of that area?

MRS. YARUS: Absolutely, we have it blocked off.

MR. YARUS: We have a C.O. It's totally blocked off, yes.

MR. TORLEY: That's the practical difficulty.

MR. YARUS: The first step is a long one.

MR. KANE: With bringing that back, are there any intentions on putting a deck further or in the future

on the back of the home that will require any additional--

MR. YARUS: No, no, not to the back.

MRS. YARUS: On the side, we have a plan because of the way the house, because it's a split, it's a little difficult. We have gone through some issues of how to design this and what happens is you have two different heights, so what we're going to have out the back door is a small deck, but it's not jutting passed the house, just on the side, so it would be sort of in the middle of a house, actually.

MR. TORLEY: No other developments, improvements you intend to make will infringe on any of the zoning codes?

MRS. YARUS: No, just the deck.

MR. MC DONALD: It shouldn't because you planned on putting it here.

MRS. YARUS: We're putting it on both sides of the back, if you look on the back, this is one adjustment already, this is going to come out, there's a back kitchen door, there will be a deck there just coming out like 7 feet.

MR. TORLEY: Nothing further than the addition?

MRS. YARUS: Right, and the other side would be the other side of the addition which will also come out so we have just gone back, we're planning to go back, what's your time line in terms of the, for the hearing?

MR. KANE: You need to talk to Patricia.

MRS. YARUS: I had some discussion, she said the next meeting planned would normally be on the 14th of October, but that being Columbus Day, you would not meet so we're down to one.

MR. KANE: Fourth Monday of October.

MRS. YARUS: That hurts us in terms of building plans, is there any way to advance that? Is there any other private session?

MR. TORLEY: No, everything must be by public hearing by notification of the press.

MR. KANE: Has to be in the press ten days prior to the public hearing.

MRS. YARUS: This may not get done until spring.

MR. KANE: All depends on the weather.

MRS. YARUS: Is there anything else I might add that would clarify this?

MR. TORLEY: Save the ideas for the public hearing.

MRS. YARUS: How does the public--

MR. KANE: Same thing you just did.

MR. MC DONALD: It gives the people a chance to speak pro or con.

MR. TORLEY: Your neighbors may or may not show up.

MRS. YARUS: I have to be here?

MR. KANE: Or your representative, you or an attorney.

MRS. YARUS: My husband count or--

MR. TORLEY: Yes, it's just a question of you must have some representative.

MR. KRIEGER: So the answer to your question is no, you both don't have to come, one of you is fine.

MRS. YARUS: The house is in my name, he can represent me and that's okay?

MR. KRIEGER: Discuss that with Pat when you talk to her so we make sure that the paperwork, necessary

paperwork is done.

MRS. YARUS: Is this rather common this degree of a variance?

MR. TORLEY: Yes, it's routine.

MRS. YARUS: These generally pass?

MR. TORLEY: We can't say anything about that.

MR. MC DONALD: Motion we set up Ann Yarus for a requested variance, rear yard variance for construction of an addition at 744 Blooming Grove Turnpike.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

ACCETTURA, JOSEPH

Mr. and Mrs. Joseph Accettura appeared before the board for this proposal.

MR. TORLEY: Request for 5 ft. 2 in. front yard variance for construction of an addition at 1 Farmstead Road (corner lot) in an R-4 zone.

MRS. ACCETTURA: My mother's handicapped, she can no longer do stairs. I'm Fawn Accetura. My mother can no longer do the stairs and so we want to turn our garage into her room with handicapped access and handicapped, I've got a plan.

MR. ACCETTURA: We're trying to make our existing garage her handicapped room.

MRS. ACCETTURA: This is our garage here and so this is where it is now, this is our garage now this is the door into the house, we're making another door and putting the garage in the front and making since we're building this we want to put a room over it.

MR. TORLEY: That's fine.

MRS. ACCETTURA: This is in line, it's this garage that comes out and it's only 22 feet, it's the garage that's off by the side yard because our lot, we have a corner lot, it comes this way.

MR. KANE: Hitting this for two front yards?

MR. BABCOCK: Yes.

MR. KANE: Otherwise you wouldn't be here.

MR. BABCOCK: That's correct, this house, the C.O. was issued in 1967, the building permit was taken out November 7 of 1966, so this is like one of the first houses they got a building permit for in New Windsor and as you look at the lot.

MR. TORLEY: What number is the building permit?

MR. BABCOCK: Just says November, it's number 119, it's the 119th building permit. And if you look at the lot back then and it was done with an approval of the Planning Board, according to this paperwork here, it didn't meet zoning today, the house doesn't meet zoning, the front yard off of Blooming Grove is only 33.2 feet and so therefore, the 35 feet that they're required off Farmstead they're going to maintain but since the angle of the house and the angle of the lot as they come out with their garage, they're getting actually closer to Blooming Grove, I tried to research back to see what the requirement was then and I can't find it.

MR. TORLEY: They're covered so they'll never be questioned again. One thing we're going to ask you because you're putting in this assuming this is going to public hearing, we ask you to verify this will remain a single family home, it's for your mother, of course, and it will, you will not convert it into an apartment.

MR. KANE: On the record is what we're going to ask you.

MRS. ACCETTURA: It will never be converted, if I want to convert, I come back for a variance.

MR. KANE: For a use variance.

MRS. ACCETTURA: No, my mother's in rehabilitation now and--

MR. KRIEGER: If you were granted permission by the ZBA to construct this addition, then it will need your affirmation on the record that you know it's a one-family house, that it will always remain a one-family house and this will not be used as a rental unit to rent to anybody else.

MRS. ACCETTURA: Right.

MR. TORLEY: So when you do have the the public hearing, you will be asked that specifically because that's important because you don't want to have people,

you're taking, you're obeying a code a lot older than your zoning code, taking care of your parents, we want to make sure in the future when you don't have that necessity.

MR. KRIEGER: Well, if you want--

MRS. ACCETTURA: The affirmation now will stand but if I ever want to change, then I have to come back.

MR. KANE: You have to come back for a use variance and honestly it's very tough.

MR. KRIEGER: As the law is presently constituted, it would be very difficult but yes, you cannot automatically use this without coming back and asking for a variance, subsequent variance from the planning board, from the Zoning Board of Appeals.

MR. TORLEY: Asking for a use variance I'd rather be staked out on an ant hill first.

MR. KANE: It's almost impossible.

MR. TORLEY: Gentlemen, do you have any questions on this matter? I accept a motion on this.

MR. REIS: Make a motion that we set up Joseph Accettura for his requested variance at 1 Farmstead Road.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

FORMAL DECISIONS

1. KOCHAN
2. COLANDREA
3. CORBETT
4. TRAVER/NORTH PLANK ROAD
5. WEISSMAN
6. BILLIK

MR. KANE: I move we take all formal decisions in one vote.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

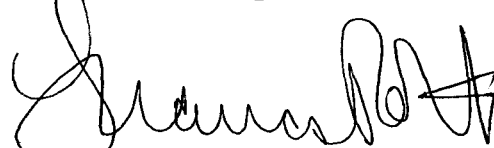
MR. KANE: I move we adjourn.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE

Respectfully Submitted By:



Frances Roth
Stenographer

9/25/02

-----X
In the Matter of the Application of

ROBERT SMITH

#02-22.
-----X

MEMORANDUM
OF DECISION
GRANTING AREA
VARIANCE

WHEREAS, ROBERT SMITH, 6 Regimental Drive, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 7.5 ft. side yard variance for an existing shed at the above residence, in an R-4 zone; and

WHEREAS, a public hearing was held on the 10th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared with his wife for this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application, however a letter of support was received and filed from an adjacent neighbor; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The topography of the lot is such that no shed can be located on the property except in the place designated without locating the shed on a slope or the removal of substantial vegetation.

(c) The shed has been in existence for approximately 14 years during which time there have been no complaints neither formal nor informal.

(d) The shed is similar to other sheds in the neighborhood.

(e) The shed is not located over any water or sewer easements, well or septic systems.

(f) Construction of the shed has not created any water hazards or affected the course of water drainage or the ponding or collection of water.

(g) Relocation of the shed would require the removal of substantial vegetation, including a tree which would have an adverse effect on surrounding neighborhood.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 7.5 ft. side variance to allow an existing shed, at the above address, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 09, 2002.


Chairman

In the Matter of the Application of

DENHOFF DEVELOPMENT CORP.

MEMORANDUM OF
DECISION GRANTING

AREA VARIANCES

#02-30.

WHEREAS, DENHOFF DEVELOPMENT, % Mike Denhoff, 711 Third Avenue, 15th Floor, New York, N. Y. 10017, has made application before the Zoning Board of Appeals for a 14 ft. maximum building height, plus 22 parking space variance for construction of a retail complex at 124 Windsor Highway in a C zone; and

WHEREAS, a public hearing was held on the 10th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by Greg Shaw, P. E. on behalf of this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor or opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located in a neighborhood of commercial properties on a busy State highway.

(b) This Applicant had previously sought and obtained the same variance requested herein, but, due to economic conditions, performed no construction pursuant to that variance and it has, therefore, lapsed.

- (c) The Zoning Local Law of the Town of New Windsor has changed since the original application and whereas the Application complied with the parking requirements as they existed at the time of the original Application, the Application no longer applies to those parking requirements.
- (d) The Applicant has located the maximum number of parking spaces that are appropriate for this development.
- (e) The topography of the property is such that a substantial amount of re-grading and construction of a retaining wall will be necessary in order to utilize the property.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted for the reasons listed above.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variances.

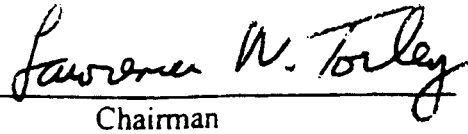
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 14 ft. maximum building height, plus 22 parking space variance for construction of a retail complex at 124 Windsor Highway in a C zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 09, 2002.


Chairman

In the Matter of the Application of

JOSEPH CORBETT

MEMORANDUM
OF DECISION
GRANTING
VARIANCES

#02-28.

WHEREAS, JOSEPH CORBETT, 21 Ellison Drive, New Windsor, NY 12553, has made application before the Zoning Board of Appeals for a 10 ft. side and rear yard variance for construction of an 8 ft. fence at the above location, in an R-4 zone; and

WHEREAS, a public hearing was held on the 24th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared for this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The property is so configured so that there is a substantial drop from the site of the house to the aforementioned parking lot. The Applicant

seeks permission to construct a fence which is tall enough to block the headlights from the users of the adjoining commercial parking lot.

(c) The property is so constructed so that shrubs or vegetation cannot be grown which will block the headlights.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 10 ft. rear and side yard variance to allow Applicant to construct an 8 ft. fence at the above address, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 23, 2002.

Chairman

-----X
In the Matter of the Application of

JOHN KOCHAN

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES

#02-33.
-----X

WHEREAS, JOHN KOCHAN, 572 Union Avenue, New Windsor, N. Y. 12553, has made application before the Zoning Board of Appeals after being referred by the Planning Board for: Lot #1 - use variance for multi-family with single family; and Lot #2 40 ft. lot width variance, at the above residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 24th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Applicant appeared by William Hildreth, L. S., on behalf of this Application; and

WHEREAS, there were three spectators appearing at the public hearing; and

WHEREAS, three persons spoke; neither were in favor of, nor in opposition to this Application and one had certain questions; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood containing residential properties.

(b) The Applicant seeks to subdivide the property to continue use of the larger lot and the three-family residence thereon and for development of the lot to be created, smaller lot, with the construction of a one-family home.

(c) The existing structure is used as a three-family house, is serviced by separate electric service for each unit and heated by separate heating units for each unit.

- (d) The lot sought to be created will be improved by a single-family home as permitted in the Zoning Code of the Town of New Windsor.
- (e) The lot to be created will be in excess of 2 1/2 acres that is much larger in size than required by the Zoning Code.
- (f) The lot to be created, if the variances are granted, will be served by public water and sewer and will be separated from other lots by a wooded buffer.
- (g) No visual changes are planned for either lot other than the construction of a single-family residence.
- (h) The single-family residence will be located on the subdivided lot a considerable distance from the roadway, whereas the lot width is measured only at the setback line.
- (i) Construction of an additional structure will not divert the flow of drainage or create any ponding or collection of water.
- (j) There will be no additional driveway entrances onto Union Avenue and the proposed new one-family home will be serviced by the existing driveway.
- (k) The character of the neighborhood is entirely residential and this variance will not create any change in the character.
- (l) The existing three-family structure on the premises has been existing since prior to the enactment of Zoning and there will be no change in its existence or appearance.
- (m) Because of the character of the neighborhood, the property is not usable for any purpose other than its present use.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. There is no other feasible method available to the Applicant that can produce the benefits sought.
2. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.
3. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

4. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

5. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

6. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor interpret the use portion for Lot #1-multi-family with single-family, as a pre-existing, non-conforming condition, plus for Lot #2 grant a variance of 40 ft. lot width, located at 572 Union Avenue, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 23, 2002.

Chairman

-----X
In the Matter of the Application of

BARBARA COLANDREA

MEMORANDUM
OF DECISION
GRANTING
VARIANCES

#02-28.
-----X

WHEREAS, BARBARA COLANDREA, 23 Ellison Drive, New Windsor, NY 12553, has made application before the Zoning Board of Appeals for a 10 ft. side and rear yard variance for construction of an 8 ft. fence at the above location, in an R-4 zone; and

WHEREAS, a public hearing was held on the 24th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared for herself with Ray Angueira for this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The property is so configured so that there is a substantial drop from the site of the house to the aforementioned parking lot. The Applicant seeks permission to construct a fence which is tall enough to block the headlights from the users of the adjoining commercial parking lot.

(c) There is an existing fence on the property of 6 ft. which, due to the topography of the lot, is not adequate to block the headlights.

(d) The property is so constructed so that shrubs or vegetation cannot be grown which will block the headlights.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 10 ft. rear and side yard variance to allow Applicant to construct an 8 ft. fence at the above address, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 23, 2002.

Chairman

-----X
In the Matter of the Application of

GEORGE TRAVER/NORTH PLANK DEVELOPMENT

MEMORANDUM OF
DECISION GRANTING
USE & AREA
VARIANCE

#02-27.
-----X

WHEREAS, GEORGE TRAVER, 42 Blanche Avenue, New Windsor, NY 12553, owner, and **NORTH PLANK DEVELOPMENT COMPANY LLC.**, % John J. Lease Realtors, 5050 Rt. 9W, Newburgh, N. Y. 12550, contract vendee, have made application before the Zoning Board of Appeals for a 5,837 sq. ft. lot area, 50 ft. lot width, 9 ft. front yard, 5 ft. side yard, 10 ft. total side yard, .78 ft. floor area ratio, plus a use variance to allow construction of a single-family residence at the above location in an NC zone; and

WHEREAS, a public hearing was held on the 24th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant was represented by Daniel J. Bloom, Esq. and Gregory Shaw, P. E.; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, two persons spoke in favor of the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
 - (a) The property is a vacant lot located in a residential neighborhood.

(b) This area has been designated NC by the Zoning Code of the Town of New Windsor, but there are no uses under the NC provision in the neighborhood, which is entirely residential.

(c) One of the persons who spoke indicated, in response to a question by the Chair, that he was in opposition to the Application. His comments, however, strongly indicated that he was in favor of the Application and was opposed to any other use of the property other than for the construction of a one-family house.

(d) The Applicant seeks to build a 30 x 30 single dwelling which will have side yards of 10 ft., a 31 ft. front yard and a 15 ft. rear yard.

(e) Because of the size of the lot, the only construction that would be permitted on the lot according to its present zoning, is a 460 sq. ft. building. Such a construction would be economically infeasible and highly unlikely.

(f) The residential character of the neighborhood has existed before the time that Zoning was enacted.

(g) The size of the lot would not permit the construction of a commercial building having adequate space for the turn around then use of commercial vehicles, thereby creating a hazard to motorists on the adjacent roadway. If residential development were permitted on this property, there would be adequate space for personal vehicles, however.

(h) If the construction of the one-family house as proposed were permitted, it would not adversely effect the drainage on the property and, may slightly improve that problem. It would not cause ponding or collection of water.

(i) Although there was a tax sale of this parcel after the enactment of the Zoning Code, the tax sale was in the nature of a redemption for unpaid taxes and not an arms-length sale. This property has, therefore, been continuous owned since prior to the enactment of zoning.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The Applicant cannot realize a reasonable return without the granting of a use variance.

2. There will be no adverse environmental impact if the proposed use is granted.
3. The alleged hardship to the property in question is unique.
4. The variance, if granted, will not alter the essential character of the neighborhood.
5. The alleged hardship has not been self-created.
6. The interests of justice will be served by allowing the granting of the Application provided the construction is limited to that of a single-family dwelling having not less than a 10 ft. side yards, 31 ft. in the front yard and 15 ft. in the rear yard.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a use variance in accordance with paragraph one above, for construction of a single-family residence in an NC zone, at the above address, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 23, 2002.

Chairman

-----X
In the Matter of the Application of

STEVEN WEISSMAN

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES

#02-35.
-----X

WHEREAS, STEVEN WEISSMAN, residing at 324 Nina Street, New Windsor, New York, N. Y. 12553, has made application before the Zoning Board of Appeals for a 9 ft. side and rear yard variances for proposed shed, plus variation of Section 48-14C(1)(c) of the Supplemental Yard Regulations to permit a 6 ft. fence between the principal structure and street at the above single-family residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 8th day of July, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared on behalf of this Application; and

WHEREAS, there was one spectator appearing at the public hearing; and

WHEREAS, one person spoke neither in favor of nor in opposition to the Application, but had certain questions; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
 - (a) The property is a residential property located in a neighborhood containing one-family properties.
 - (b) The topography of the property is that there is a significant slope in front of Applicant's property thereby rendering a 4 ft. fence as allowed by the Zoning Code inadequate to shield the property from neighboring motorists.
 - (c) There is an existing 4 ft. fence on the property which will be replaced, if the variance is granted, by a 6 ft. fence. The new fence will be located in the same place as the prior fence.

- (d) The proposed shed will be similar in size and construction to other sheds in the neighborhood.
- (e) Because of the location of this lot, it has, legally, two front yards although it appears, visually, to have only one.
- (f) The proposed fence will be a significant distance from the adjacent roadway and will not exceed the vision of motorists on the adjacent roadway.

(g) Neither the shed nor the fence will be located on top of any sewer or water easements. Because of the appearance of the property, location of the shed as required by the Zoning Code would impair the use of the property and the passage thereon.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 9 ft. side and rear yard variance for proposed shed, plus variation of Section 48-14C(1) (c) of the Supplemental Yard Regulations to permit a 6 ft. fence to exist between principal structure and street at the above address, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 23, 2002.

Chairman

-----X
In the Matter of the Application of

MARY BILLIK

MEMORANDUM
OF DECISION
GRANTING
VARIANCE

#02-37.
-----X

WHEREAS, MARY BILLIK, 2307 Pioneer Trail, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 3 ft. rear yard variance for construction of an in-ground pool at the above single-family residence in an R-3 zone; and

WHEREAS, a public hearing was held on the 8th day of July, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant, Mary Billik appeared with Mr. Billik for this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The property abuts property owned by the Town of New Windsor.

(c) The construction of the requested in-ground pool will not create any drainage problems or cause the ponding or collection of water.

(d) The variance is requested so that the pool may be located a sufficient distance from the house so that persons exiting the house will not fall into the pool.

(e) The pool will be similar to other pools in the neighborhood.

(f) The property abuts property on which a hiking trail is proposed and therefore needs to be screened from neighbors.

(g) The pool will not be built on top of any water or sewer easements.

(h) No significant environmental change will be created by the construction of the pool.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 3 ft. rear yard variance for construction of an in-ground pool, at the above residence, in an R-3 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: September 23, 2002.

Chairman